IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

MONDAY, THE 23RD JULY 2007 / 1ST SRAVANA 1929

WP(C).No. 21398 of 2007(V)

PETITIONER:

P.S.UNNIKRISHNAN, S/O. SUBRAMANIAN,
AGED 36, PROPRIETOR, HI POWER AGENCIES,
PADUTHALA PARAMBIL HOUSE, KOLLANKUNNU,
NADAVARAMBU P.O., NOW RESIDING AT KURUPATH LANE,
VELIYANNUR, THRISSUR-21.

BY ADV. SRI.K.M.JAMALUDHEEN
SMT.LATHA PRABHAKARAN

RESPONDENTS:

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1. THE COMMERCIAL TAX OFFICER,
IV CIRCLE, THRISSUR DISTRICT.

2. THE SALES TAX OFFICER,
IV CIRCLE, THRISSUR DISTRICT.

3. THE DEPUTY TAHSILDAR (REVENUE RECOVERY),
THRISSUR-20.

BY ADV. SHRI.C.K.GOVINDAN, GOVERNMENT PLEADER

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 23/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

C.N.RAMACHANDRAN NAIR, J.

WP(C) No. 21398 of 2007

Dated, this the 23rd day of July, 2007

J U D G M E N T

This writ petition is filed challenging that recovery is conducted without serving copies of orders and demand notices. Pursuant to interim order issued in the writ petition, petitioner was served with copies of assessment order and penalty order for the year 2003-04. Learned Government Pleader stated that arrears as of now is around Rs. 70,000/-, which includes penalty of Rs.25,000/- to be paid for non-payment of tax. It is seen from Ext.P6 that the assessing officer has levied penalty under Sec. 45 A as against Sec. 45 AA, which is the provision for penalty for non-payment / belated payment of tax. The reason for levying penalty is dishonour of cheque submitted towards payment of tax. Learned counsel submitted that the Manager of the Firm was responsible for the irregularities. In any case, I feel petitioner can be granted reduction in penalty for more than one reasons. In the first place, there is no evasion of tax and petitioner has already paid Rs.15,000/- vide Ext.P3 receipt. Moreover, interest payable under Sec. 23(3) is for belated payment, which is mandatory and is quite

high. In the circumstances, this writ petition is disposed of reducing penalty levied, as per Order No. 25143160 dated 03/09/2005/ 2003-04, to Rs. 10,000/-, provided, the balance arrears of tax and interest due under Sec. 23(3) are paid along with reduced penalty on or before 31/08/2007. However, if payment is not made by 31/08/2007, reduction in penalty granted will stand automatically vacated and respondents can proceed for recovery of balance arrears of tax, interest and full amount of penalty after that date.

(C.N.RAMACHANDRAN NAIR, JUDGE)

jg